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Thank you for the introduction. Many thanks to EEI and NRECA for hosting this conference, and for giving me the opportunity to speak to you this afternoon.

I've been asked today to address the U.S. Department of Energy's role in transmission siting and our actions to implement the siting provisions in EPAct 2005. In 2005, the Congress recognized the growing concern that the bulk power grid was not keeping pace with demand and market changes. For that reason, three specific provisions related to transmission siting were included in the 2005 Energy legislation.

First, DOE is required to publish a study of transmission congestion every three years, and issue a report which may designate national interest electric transmission corridors if the Department concludes that consumers are being adversely affected by transmission congestion. Although the formal legislative history of EPACT is scant, it is generally accepted that this provision is designed to deal with potential problems involving the opposition of individual States to transmission lines that could potentially offer benefits to the region as a whole.

Secondly, the Department is to play a coordinating role for the environmental reviews and siting decisions by Federal agencies required to site transmission projects.

And, finally, the Department is required to work with the Federal land management agencies to designate preferred energy transport corridors across Federal lands – initially in the eleven contiguous Western States, and then in the rest of the United States. These last two provisions were primarily aimed at smoothing the Federal permitting process, which had been seen as a barrier to timely transmission construction.

DOE's 2009 Congestion Study

Now I would like to dissect each of these provisions one at a time. First, I will talk about the DOE's Congestion Study and the prospects of the 2009 Study. For background, EPAct requires DOE to issue a study of national transmission congestion every three years. We published our first study in August 2006 and are currently working on the second which will be issued in August 2009. Based on the results of the studies, the EPAct authorizes, but does not require, the Secretary of Energy to designate National Interest Electric Transmission Corridors. Generally, if a transmission project is located in a national corridor and is not approved by a State within 1 year, the applicant may request a siting permit from FERC.

Based on the results of the 2007 Congestion Study, the Department designated two National Corridors – the Mid-Atlantic Area National Corridor and the Southwest Area National Corridor. Further, we consciously made those corridors very broad in scope so as to avoid constricting the options available to transmission project designers and siting agencies. The Department's decision to designate the two National Corridors last October has been challenged by 13 petitions for review in four separate U.S. Courts of Appeals (DC, 2nd, 4th, and 9th). These appeals are now consolidated in the Ninth Circuit, where this litigation is expected to continue well into 2010.

With respect to the 2009 Congestion Study, we fully recognize the added value of taking into account recent work of other States, regional reliability entities, and various stakeholders. Since June of this year, DOE has hosted six public regional-level workshops with the purpose of discussing recent congestion-related developments and trends with experts from each region. In addition, we have been meeting on a bilateral basis with state officials or others who wished to talk directly with us about congestion matters. We will also maintain an open-door policy while the 2009 Congestion Study is in preparation, and I hope you will provide input to this work.

As in the 2006 Congestion Study, we are working with transmission planners and other relevant experts in the Eastern and Western Interconnections to benefit from their experience with recent congestion on key paths or flowgates. For the East, Lawrence Berkeley National Laboratory has engaged Open Access Technologies, Inc. (OATI) to develop a variety of possible metrics for gauging the extent and significance of transmission congestion, and to screen historic flow data in terms of these metrics. In the West, OATI and the Western Electric Coordinating Council's Transmission Expansion Planning Policy Committee (TEPPC) will conduct a somewhat similar review.

Furthermore, DOE intends to host at least one technical conference in early 2009 at which the results of these analyses will be presented and discussed. The results and commentaries from these technical conferences will be another set of important inputs to the 2009 study.

To avoid getting into ongoing debate about analytic assumptions, we have decided not to develop DOE projections of future congestion for inclusion in the 2009 Congestion Study. I don't want to give the impression, however, that we are not interested in projections that others have made of their future transmission requirements.

We are indeed interested in the expectations and views that RTOs, ISOs, regional reliability entities, utilities, States, or other entities have on this subject. Accordingly, we have initiated a review of all of the current projections studies we can find. If you know of existing or forthcoming studies that should be included in this review, please let us know.

Whether the new Administration will decide to designate additional National Corridors remains to be seen. In my opinion, the need for additional transmission capacity is more important than ever and the National Corridor option will remain highly relevant.

Section 368:

Moving on, Section 368 of the EPAct tasks the Department to serve as the lead Agency to direct and facilitate all activities required to designate energy transport corridors on Federal lands, including the preparation of two Programmatic Environmental Impact Statements, first for the eleven Western States and then for the remaining States. We are making slow but deliberate progress as we work with the Federal land agencies to conclude the Programmatic EIS for the 11 contiguous Western States. The Draft Programmatic EIS was issued in November 2007 and the final PEIS is due next month.

The Department of the Interior and the Forest Service, as well as other land agencies are expected to incorporate the designated corridors into their relevant agency land use and resource management plans or equivalent plans by the end of this year.

And, as required by law, last week, the Department's Advance Notice of Intent to prepare a programmatic EIS entitled "Designation of Energy Corridors on Federal Land in 39 States" was published in the Federal Register. This begins the formal process of repeating the work done in the 11 western states in the rest of the nation.

Section 216(h)

EPACT also added a new section 216(h) to the Federal Power Act, which requires the DOE to act as the lead agency for coordinating all applicable Federal authorizations and related environmental reviews required under Federal law in order to site an electric transmission facility. In August 2006, DOE and eight other Federal agencies signed a Memorandum of Understanding that established a framework for early cooperation and participation that would enhance coordination of the review of all applicable authorizations and related environmental reviews.

I note that the policy set forth in section 216(h) reinforces the Administration's general policy, announced in May 2001 by Executive Order 13212, which mandated each agency with the authority to issue Federal authorizations to ensure the timely and coordinated review and permitting of electric transmission facilities.

DOE engaged in coordination discussions with the signatories of the MOU to develop implementing regulations. Based on the results of those discussions, DOE drafted an Interim Final Rule and a Notice of Proposed Rulemaking (NOPR). These procedures provide transmission developers the opportunity to seek DOE assistance in coordinating the review by multiple Federal agencies.

Both these rules were published in the *Federal Register* on September 19, 2008 (73 FR 54456). The rules, along with a summary of those rules, are available on our 216(h) webpage (http://www.oe.energy.gov/fed_transmission.htm).

Comments on the interim final rule are due by October 20, 2008 (EEI writing). Comments on the NOPR are due by November 3, 2008. Any comments received by DOE will be posted for public review on our 216(h) webpage.

NREZ Support:

In addition to the new requirements on OE pursuant to EPAct, we are amplifying our traditional role of supporting efforts by State and regional regulators to work together to resolve regional issues. With respect to transmission siting, we support efforts in the West to resolve the difficult "chicken-or-egg" dilemma of how to plan transmission to bring remote – often not yet built – generation sources to market, such as large wind projects. There is often a problematic miss-match between the timing of new generation and new transmission. With the possible exception of new nuclear power plants, transmission planning, siting, and construction can take longer than the planning and siting of generation facilities.

To address this difficulty, we are working closely with the Western Governors Association as they create an initiative to identity potential renewable energy generation sources in the West, including those located in concentrated geographic “zones,” and then to bring together load serving entities with generation developers to discuss possible opportunities to cause actual transmission projects to move forward. The DOE is pleased to support this initiative and hopes that similar transmission coordination will occur elsewhere in the country.

Cooling Tower Study:

Another recent piece of work worth mentioning is the recently released Cooling Tower Study done at the request of the Senate Appropriations Subcommittee on Energy and Water Development. The Study is an in depth analysis of the electric reliability impacts if the Environmental Protection Agency were to promulgate a rule -- or the courts require a rule -- under the Clean Water Act that would have the effect of requiring all existing steam combustion generators that are currently using once-through cooling systems to install cooling towers in order to reduce water intakes.

In collaboration with the National Electricity Reliability Corporation (NERC) and Office of Fossil Energy's staff at the National Energy Technology Laboratory (NETL) the analysis concludes that overall existing reserve generation capacity available to ensure reliability during periods of peak demand could be reduced by about 44,000 MW, or 4.3 percentage points at a time the electricity industry faces major challenges to maintain sufficient reserve capacity margins. NERC determined that some NERC sub-regions would experience a reduction of almost half of their peak reserve generation capacity. [The sub-regions that would have the most negative reliability impacts under this analysis would be California, New York, and New England.]

As this analysis indicates, it will not be easy to meet the challenges of increasing electricity demand and also make continued progress on environmental goals. Transmission and resource planners will have to take into account a range of potential regulatory changes that could affect existing generation and affect reliability and dictate future sites for generation. In addition, as new environmental regulations are developed by the Congress and the next Administration, I urge them to consider potential energy impacts, and include appropriate lead times needed for the electricity sector to comply and still be able to provide reliable electric service to our citizens and our economy.

Conclusions:

EPACT included several provisions to encourage transmission, including tax changes and new FERC incentive rate authority. However, the 2005 law was only a starting point. All of you appreciate how much more work is required. Development of our alternative energy sources is becoming increasingly important, and in most cases, there does not exist adequate electric transmission to move new generation in remote locations to consumers. There is an old saying in the oil industry, "You gotta drill where the oil is." Much of the best wind, solar, and geothermal resources are far from consumers.

And so, while it seems intuitive, I find that we must constantly remind people: if you support these new alternative energy sources, you must support the siting of new transmission lines. I believe the absence of electric transmission will be the greatest impediment to the construction and operation of alternative energy in this Nation.

Future new technologies such as energy storage and a smarter grid may increase the efficiency of the electric transmission system and reduce the need for new generation, however, even with a smart grid, effective demand response programs, and increased local storage - the system will still require additional transmission to provide reliability, increase market competition, and access to new remote generation.

The construction of major interstate transmission projects has been difficult in the past. Notwithstanding the 2005 Act, most of the impediments remain.

Congress demonstrated in 2005 just how far it was willing to go to move toward federalizing transmission siting. EPAct's provision to require a transmission congestion study, then a discretionary national corridor designation, to allow for limited FERC backstop authority, is an awkward, three-step process. I think the Department did a very good job implementing the 2005 law, and I'm proud of the people in the Electricity office who worked so hard to establish an entirely new Framework, but it wasn't easy.

Granting FERC major transmission siting authority similar to the authority it has had for over 40 years to site natural gas pipelines would, without a doubt, have been more efficient. However, as is the case today, agreement by the public and the States to turn over plenary authority to the Federal Government to plan and site new transmission is unlikely. For that reason Congress was forced to provide a more limited grant of authority to FERC.

In addition, while the requirement to establish preferential energy transport corridors across Federal lands will be helpful to some, those preferred transport corridors may not match up with available lands or needs on either side of that Federal land.

The requirement to coordinate Federal authorizations required to site transmission projects is also limited by the clear restrictions against changing any other requirement of law.

The provisions in EPACT that I spoke about today are limited grants of authority, at best. All Federal agencies still have to abide by NEPA, the Endangered Species Act, the Clean Water Act, the Clean Air Act, the Federal Land Policy and Management Act, the National Forest Management Act, the Historic and Cultural Preservation Act, etc. etc. The different Federal agencies have their distinct priorities and missions – which oftentimes do not put national electricity reliability at the top.

State permitting authorities have their own specific statutes to follow – including in some cases, laws that prevent a State from approving a permit for a transmission line that does not benefit that State.

And, of course, the public generally opposes new transmission, particularly in the more populated areas. These are all very significant obstacles, and while it's fair to say that EPACT has been of limited value in overcoming these obstacles, it is also true to say that Congress went as far as it could in 2005 to increase Federal involvement and authorities in electric sector planning processes.

How much more authority the Federal Government may need to ensure that adequate transmission gets built will depend largely on the success of State, regional, and even Interconnection-wide efforts to plan for and build the transmission needed to meet our future needs for reliable, affordable, and cleaner electricity. And I expect the DOE will continue to support these stakeholders as they work to identify and overcome barriers to transmission capacity expansion.

This ends my formal remarks today but I would like to open up the floor and answer your questions.

Q&A:

Interim Final Rule

The Interim Final Rule clarifies several provisions of section 216(h):

DOE interprets the term "lead agency" as used in FPA section 216(h) as making the Department responsible for coordinating environmental review efforts undertaken by other permitting entities, rather than being the Federal entity responsible for the preparation of the environmental review document under the National Environmental Policy Act (NEPA). However, the rule makes clear that selection of a lead agency for preparing NEPA compliance documents will be consistent with regulations issued by the Council on Environmental Quality.

DOE will provide this coordination when requested by an applicant seeking more than one transmission siting authorization under Federal law.

Notice of Proposed Rulemaking

The NOPR implements the elements of the regulations pertaining to the responsibilities of other Federal agencies. Public comments on the NOPR will be accepted until November 3, 2008. Key provisions include:

1) Requires Federal permitting agencies to inform DOE of requests for authorizations required under Federal law for the siting of significant facilities used for the transmission of electricity in interstate commerce whenever an environmental impact statement is the appropriate NEPA compliance document, even when no request for DOE coordination is received.

2) Establishes a presumption that Federal authorization decisions must be completed within one year, or as soon thereafter as practicable in compliance with Federal law. This NOPR proposes that this one-year clock be tied to milestones in the preparation of National Environmental Protection Act documents.

DOE has delegated coordination of reviews for projects in National Interest Electric Transmission Corridors to the Federal Energy Regulatory Commission (FERC). DOE and FERC will seek to make their coordination processes as similar as possible.]